

REMARKS

Claims 1-22 were pending in the application before entering this amendment.

The examiner objects to claim 1 for informalities.

The examiner rejects claims 1-22 under 35 U.S.C. § 103 (a) as being unpatentable over Chaddha et al. (U.S. Patent 5,768,535) in view of Baker et al. (U.S. Patent 6,775,231).

Applicant amends claims 1-4 and 13.

Claims 1-22 remain in the application after entering this amendment.

Applicant adds no new matter and requests reconsideration.

Claim Objections

Applicant amends claim 1, and its dependent claims 2-4, to correct the informalities.

Claim Rejections Under § 103

The examiner rejects claims 1-22 as obvious over Chaddha in view of Baker. Applicant disagrees for the reasons that follow.

Claim 1 recites *determining a bandwidth available to the data transmitter associated with transmitting the base layer and transmitting the enhancement layer if there is enough bandwidth available to transmit the enhancement layer responsive to determining the bandwidth associated with transmitting the base layer*. Claims 13 and 17 include similar limitations.

The examiner acknowledges that Chaddha does not teach determining if there is enough bandwidth available to the data transmitter, as recited in the claims. The examiner, however, suggests that Baker's dynamic weighted resource sharing system and method provides the missing element.¹ Applicant disagrees for the reasons below.

Baker discloses a technique that dynamically adjusts resource allocations for each traffic class based on actual traffic load.² Baker's technique involves classifying incoming packets into service classes, measuring packet arrival rates for each class, determining weights for each service class, and allocating bandwidth to each class according to the weights.³ An edge node 202 classifies packets to be forwarded into one of four service classes.⁴ A core node 204

¹ Office action, page 3.

² Baker, abstract.

³ Baker, figure 4, column 2, lines 32-54.

⁴ Baker, column 4, lines 58-61.

measures the packet arrival rates for each service class, and periodically determines a weight for each class using e.g., weighted fair queuing or weighted round-robin.⁵ The core node 204 selects packets for transmission based on the weights.⁶

In contrast, claim 1 recites *determining a bandwidth associated with transmitting the base layer*. While Baker transmits its service classes according to determined weights that it measures on the packet's arrival, it does not measure bandwidth after having transmitted any service class. Put differently, Baker's measurement system 304 "monitors the packet arrival rate for each service class"⁷ and its weight determination block 306 "periodically determines new weighted fair queuing or Weighted Round-Robin weights based on the packet arrival rate measurements for each class."⁸ Baker measures arrival rates at arrival or input and does not make any kind of bandwidth determinations after having transmitted certain service classes as would be required by the claim.

Claim 1 recites *transmitting the enhancement layer if there is enough bandwidth available to transmit the enhancement layer responsive to determining the bandwidth associated with transmitting the base layer*. If Baker does not disclose determining the bandwidth associated with transmitting any of its service classes, as we propose above, it cannot disclose transmitting any other service class responsive to determining the bandwidth. While Baker discloses periodically assigning weights, these weights are exclusively based on packet arrival rates and not on bandwidth available after having transmitted one service class or another.

Claim 1, 13, and 17, and their respective dependent claims 2-12, 14-16, and 18-22, are thus in condition for the examiner's allowance because they are patently distinguishable from Chaddha, Baker, or their combination.

⁵ Baker, column 5, lines 23-43.

⁶ *Id.*

⁷ Baker, column 5, lines 29-31.

⁸ Baker, column 5, lines 31-34.

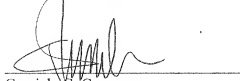
Conclusion

For the foregoing reasons, the applicant requests reconsideration and allowance of all pending claims. The applicant encourages the examiner to telephone at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Customer No. 46404

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

A handwritten signature in dark ink, appearing to read 'Graciela G. Cowger', is written over a horizontal line.

Graciela G. Cowger
Registration No. 42,444

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
(503) 222-3613